

By: Robert R. Puentes

H.B. No. 2426

A BILL TO BE ENTITLED

AN ACT

relating to prohibiting the creation or enforcement of certain restrictive covenants that undermine water conservation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 202.007(a) and (d), Property Code, are amended to read as follows:

(a) A property owners' association may not include or enforce a provision in a dedicatory instrument that:

(1) prohibits or restricts a property owner from:

(A) ~~[(1)]~~ implementing measures promoting solid-waste composting of vegetation, including grass clippings, leaves, or brush, or leaving grass clippings uncollected on grass;

(B) ~~[(2)]~~ installing rain barrels or a rainwater harvesting system; ~~[or]~~

(C) ~~[(3)]~~ implementing efficient irrigation systems, including underground drip or other drip systems;

(D) implementing landscaping design, installation, or maintenance standards that result in water conservation, including standards relating to the use of native or other drought-tolerant plants, shrubs, trees, or grasses; or

(E) landscaping a lot or parcel in its natural or native vegetative state; or

(2) requires a property owner to:

(A) follow a defined irrigation schedule unless

1 the water supplier for the property mandates the irrigation
2 schedule to curtail outdoor water use;

3 (B) maintain the property at a specified visual
4 level that requires the owner to irrigate the property;

5 (C) install or use an automatic underground
6 irrigation system;

7 (D) install turf grass; or

8 (E) install and maintain a specific variety or a
9 minimum area of turf grass.

10 (d) This section does not:

11 (1) restrict a property owners' association from
12 regulating the requirements, including size, type, shielding, and
13 materials, for or the location of a composting device, rain barrel,
14 rain harvesting device, or any other appurtenance if the
15 restriction does not prohibit the economic installation of the
16 device or appurtenance on the property owner's property where there
17 is reasonably sufficient area to install the device or
18 appurtenance;

19 (2) require a property owners' association to permit a
20 device or appurtenance described by Subdivision (1) to be installed
21 in or on property:

22 (A) owned by the property owners' association;

23 (B) owned in common by the members of the
24 property owners' association; or

25 (C) in an area other than the fenced yard or patio
26 of a property owner;

27 (3) prohibit a property owners' association from

1 establishing:

2 (A) standards for ~~[regulating]~~ the installation
3 of efficient irrigation systems; or

4 (B) ~~[, including establishing]~~ visibility
5 limitations for aesthetic purposes;

6 (4) prohibit a property owners' association from
7 regulating the installation or use of gravel, rocks, or cacti; or

8 (5) restrict a property owners' association from
9 regulating yard and landscape maintenance if the restrictions or
10 requirements do not;

11 (A) restrict or prohibit turf or landscaping
12 design; or

13 (B) result in increased water use by the owner
14 ~~[that promotes water conservation]~~.

15 SECTION 2. The change in law made by this Act applies to a
16 provision in a dedicatory instrument as that term is defined by
17 Section 202.001(1), Property Code, recorded on or after the
18 effective date of this Act.

19 SECTION 3. This Act takes effect September 1, 2005.

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MAR 09 2005

Filed with the Chief Clerk

MAR 15 2005

Read first time and referred to Committee on

Land and Resource Management

Reported _____ favorably (as amended)
(as substituted)

Sent to Committee on (Calendars)
(Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of _____ yeas, _____ nays, _____ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(_____ yeas, _____ nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(_____ yeas, _____ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of _____ yeas, _____ nays

Read third time, _____, and passed by a (viva voce vote)
(_____ yeas, _____ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)